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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,855	02/19/2002	Seiji Kozaki	2611-0176P	2469
2292	7590	12/06/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			WANG, LEMING	
			ART UNIT	PAPER NUMBER
			2638	

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/049,855

Applicant(s)

KOZAKI ET AL.

Examiner

Leming Wang

Art Unit

2638

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6, 9 and 11-13.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


KENNETH VANDERPUYE
SUPERVISORY PATENT EXAMINER

(continued from 11) applicant argues that " the Office Action appears to admit that the primary reference, Yuki, fails to disclose a band allocation control unit of a host station that differentiates between two classes of slave units: a first class of slave unit that can identify a type of data being transmitted; and a second class of slave unit that cannot identify the type of data being transmitted. It follows that Yuki fails to disclose a band allocation control unit sending different band identification information depending on the result of this differentiation." and "Although Haartsen discloses a Time Division Multiple Access (TDMA) radio communication system, in which different time slots are allocated to different types of information, modifying Yuki to adopt a time-slot allocation technique (assuming such a modification would have been obvious, which Applicants do not admit) does not result in the technical feature of claim 1 discussed above. In this regard, Applicants note that the TDMA radio communication system of Haartsen is based on the assumption that data identification is performed before hand. See e.g., column 8, lines 56-59."

In fact, in the system of Yuki et al. modified by Haartsen, Yuki et al. teach an optical burst transmission / reception control system comprising: a plurality of slave station apparatuses (10-1, 10-2, ..., Fig.1) which commonly use a transmission band (Col.1, lines 16-23), and a host station apparatus (20, Fig.3) which posts band allocation information for controlling of use transmission bands (Fig.12, Col.19, lines 39-42, 53-59) of said slave station apparatuses (10, Fig.2) to said slave station apparatuses, wherein said respective slave station apparatuses transmit data to said host station apparatus (Col.2, lines 50-54; Col.63, lines 38-39) based on the band allocation information posted from said host station apparatus (Col.2, 25-28), wherein said host station apparatus has band allocation control unit (27, Fig.3, 802 Fig.80), and when the band allocation control unit controls band allocation for a slave station apparatus which does not identify a type of data to be transmitted (Col.5, lines 38-41, Col.74, lines 3-5), said band allocation control unit posts band identification information including identification of the slave station apparatus to the slave station apparatus (Col.5, lines 33-37). Yuki et al. further teach the said plurality their slave station apparatuses (Col.64, lines 14-19), which identify a type of data to be transmitted (Col.63, lines 4-7), have a data transmission control unit (17, Fig.80), and Haartsen teach a method to separate between time slots allocated to voice communication channels and to data communication (Col.3, lines 45-50, Col.4, lines 26-32, inherently a data type must be identified in a information sent to slave station). Please note that, as taught by Haartsen in Column 8, lines 56-59, time slots A, B, and C are assigned to voice channels in master unit before hand to enable a slave unit to identify the voice types of signals.